

Notice of Allowability

Application No.

09/535,105

Examiner

Ngoc K. Vu

Applicant(s)

ARSENAULT ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/30/06.
2. ☒ The allowed claim(s) is/are 1-14.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Georgann Grunebach and Michael Zimmerman on 7/24/2006.

The application has been amended as follows:

In the claims:

Claim 1, line 12, before "input variables", --the two or more-- has been inserted.

Claim 1, line 12, "desirability" has been changed to --the first desirability value and the second desirability value--.

Claim 1, line 14, after "second desirability", --value-- has been inserted.

Claim 1, line 15, after "first desirability", --value-- has been inserted.

Claim 1, line 17, "an at the least" has been changed to --the at least--.

Claim 7, line 13, "input variables", --the two or more-- has been inserted.

Claim 7, line 14, "desirability" has been changed to --the first desirability value and the second desirability value--.

Claim 7, line 15, after "second desirability", --value-- has been inserted.

Claim 7, line 16, after "first desirability", --value-- has been inserted.

Claim 9, line 11, before "input variables", --the two or more-- has been inserted.

Claim 9, line 12, "desirability" has been changed to --the first desirability value and the second desirability value--.

Claim 9, line 13, after "second desirability", --value-- has been inserted.

Claim 9, line 14, after "first desirability", --value-- has been inserted.

Claim 9, lines 16-17, "adapted for determining preferences associated with a television viewer" has been deleted.

Claim 13, line 11, before "input variables", --the two or more-- has been inserted.

Claim 13, line 12, "desirability" has been changed to --the first desirability value and the second desirability value--.

Claim 13, line 13, after "second desirability", --value-- has been inserted.

Claim 13, line 14, after "first desirability", --value-- has been inserted.

2. Claims 1-14 are allowed.

3. The following is an examiner's statement of reasons for allowance:

The closest prior art, Herz of the record teaches providing an electronic program included a list of preferred channel selections or virtual channels based on customer profile. Particularly, the system of Herz calculates an agreement matrix by comparing customer profile to content profile. The agreement matrix thus characterizes the attractiveness of program to the customer. Virtual channels are generated from the agreement matrix to produce a list of video or data programming which will provide the greatest satisfaction to the customer. Herz fails to anticipate or render the following limitations obvious: "creating an at least three dimensional profile surface adapted for determining preferences associated with a television viewer by determining a first desirability value associated with two or more input variables and determining a second desirability value associated with the two or more input variables, the three

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dimensional profile surface comprising N dimensions, where N is any number greater than or equal to three, N-1 dimensions are associated with the two or more input variables, and a remaining dimension is associated with the first desirability value and the second desirability value and a first set of levels of the two or more input variables used to determine the second desirability value being different than a second set of levels of the two or more input variables used to determine the first desirability value", "calculating a first priority value by mapping the first and second fuzzy variable values on the at least three dimensional profile surface" as recited in each independent claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ngoc K. Vu
Primary Examiner
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July 25, 2006